nIN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 7082 of 2004

Between:

Sheep & Goat Breeders Society,

Regd. No. 3104 of 1997,

Rep., by its Secretary P. Jamalalah,

having its office at 1-1-187/1/3, Vivek Nagar, Chikkadapally, Hyderabad.

..... PETITIONER

AND

1 The Government of A.P.,

rep., by Prl. Secrtary, Secretariat, Hyderabad,
2 The Director Animal Husbandry Department,

Government of A.P., Hyderabad.
3 M/s. Abhyudaya Chemical & Scientific Corporation,

Plot No. 143, Ground Floor, Phase-I Kalyan Nagar,
Hyderabad-38, A.P.,
4 M/s. Andhra Chemical Supplies,

5-3-833, Malakunta Road, Goshamahal,

Hyderabad-12., A.P.
5 M/s. Bio-Incorp,

12-5-149/11/1, Vijayapuri, Taranaka, Hyderabad-17
6 M/s. Hy-Glass and Chemicals,

3-2-848/1/8 to 11, Kachiguda station Road,

Hyderabad-27 A.P.,
7 M/s. Md. Yousuf Afsar,

H. NO. 20-4-205/1, Himatapura,

Hyderabad-02 A.P.,
8 M/s. Millipore (India) Pvt. Ltd.,

50-A, 2nd Phase, Ring Road, Peenya

Pangalore-58, Karnataka
9 M/s. S.V. Scientific & Surglcal Agencles,

3-4-495/E, Hi-Line Apts., Barkatpura Hyderabad 27, A.P.,
10 M/s. Sree Vinayaka Medical Agencies,

D. No. 11-33-25, Thatakulavari Street
Vijayawada-01, A.P.
11 M/s. Sri Datta Plastics Pvt. Ltd.,

2-2-12/3/2, (E-%), Durgabal Deshmukh Colony,
Hyderabad-07, A.P.,
12 M/s. Stridewel International Shop No.11,

Club road, Market, North West Avenue,
Punjabi Bagh (West), New Delhi-110026
13 M/s. The Forward Surgical Co.,

5-4-435/9 Nampally Station road, Hyderabad-01 A.P.,
14 M/s. Vishal Surgical Equipment Company,

101-102, 1st Floor, Doshi Square, 3-5-82/1,
Basheerbagh Hyderabad-29
15 M/s. Yorcosales Pvt., Ltd.,

11, Netaji Subash Marg Dhrya Ganj, New Delhi-2
16 V. Balram Contractor,

H. No. 11-1-861, Seetharambagh, Hyderabad A.P.,

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent in allowing the distributors/ stockists and dealers to participate in the tender for the year 2003-2005 for supply of disinfectant, germicides, surgical aids, Anesthetics and relate material etc., and accepting the tender of respondents 4 to 16 in the release order No. 11813/H2/2003, dated 9-03-2004 as illegal arbitrary, and contrary to the Government Memo No. 2444/AH.II (3)/2003 dated
25-02-2004 and consequently to set a side the same and direct the respondents 1and 2 to call for fresh tenders only from the original manufacturers having valid manufacturing license within the time stipulated by this Honourable Court.

Counsel for the Petitioner: Smt. N.(P).ANJANA DEVI, SATYANARAYANA

Counsel for the Respondents NO.1 & 2: GP FOR ANIMAL HUSBANDARY

Counsel for the Respondent No.s 7 & 16 : Mr.N.SRIDHAR REDDY

Counsel for the Respondent Nos. 3,6,13 & 14 :Mr.D.L.KIRAN PRAKASH

Counsel for the Respondent No.4: Mr. S.BALACHAND

Counsel for the Respondent No.5,8 to 12, 15 & 16 : NONE APPEARED.

The Court made the following :

ORDER:

This Writ Petition is filed seeking to declare the action of the 2nd respondent-Director of Animal Husbandry, Government of A.P., in allowing the Distributors/Stockiests and Dealers to participate in the tender for the year, 2003-2005, for supply of Disinfectants, Germicides, Surgical aids, Anesthetics and related material etc., and accepting the tenders of respondents 4 to 16 in the Release Order No.11813/H2/2003 dated 09-03-2004, as illegal, arbitrary and contrary to the Government Memo No.2444/AH.II(3)2003 dated
25-02-2004, and consequently, to set aside the same and direct the respondents 1 and 2 to call for fresh tenders only from the original manufacturers having valid manufacturing licences.

2. It is the case of the petitioner that the Government of A.P., issued a Memo dated 25-02-2004, approving certain terms and conditions for the purchase of Veterinary

drugs and therapeutics and permitted the 2nd respondent-Director of Animal Husbandry, to call for bi-annual tenders as per the approved terms and conditions enclosed in the said memo. The criteria for eligibility to participate in the tenders of Veterinary drugs and therapeutics is as follows:

Original drug manufacturers with the valid manufacturing licence/manufacturers on loan licence & Third party licence holders are only eligible. They should have WHO GMP certificate in the case of I/V Fluids and GMP certificate in the case of other category of medicines. They should have annual turnover of Rs.40.00 lakhs in the case of Allopathic drugs and Rs.10.00 lakhs in the case of Indigenous and Ayurvedic drugs. Original manufacturers with valid manufacturing licence or repacking licence holders are only eligible to participate in the tender. They should have GMP certificate in the case of all general items. They should have annual turnover of Rs.10.00 lakhs in the case of general items. Original manufacturers with valid manufacturing licence are only eligible to participate in the tender and they should have GMP certificate for this category of items. They should have annual turnover of Rs.10.00 lakhs in the case of disinfectants, germicides, surgical aids, anesthetic and related materials. The distributors/suppliers/agents are not eligible to participate in the tenders.

But, the respondents have permitted the Distributors/ Suppliers/ Agents also for the supply of Veterinary drugs, Artificial Insemination Equipment and Veterinary Diagnostics and Laboratory needs and issued the Release Order of allotment of contract, vide Release Order No.1118/H2/2003 dated 09-03-2004, and therefore, the said Release Order is contrary to the Government Memo dated
25-02-2004.

3. It is the case of the respondents that the petitioner society is not a Body recognized by the Government and in fact, in all the districts there are District Sheep Breeders Cooperative Unions, registered under the A.P. Cooperative Societies Registration Act, which are recognized by the Government. The petitioner is not at all an interested or affected party and it cannot ventilate the alleged grievance of the sheep breeders, when there is no grievance at all by any of the recognized District Sheep Breeders' Cooperative Society. There are also Village Sheep Breeders Cooperative Societies in each Revenue village, which are affiliated to the District

Unions. The District Unions have elected Chair Persons and the functional Registrar is the Joint Director of Animal Husbandry of the concerned District. The Writ Petitioner is nothing to do with the concerned Village Societies or the District Unions, which are registered and recognized. It is further submitted that the Government Memo, dated 25-02-2004, referred by the Petitioner approving the terms and conditions fixing the eligibility criteria for participation in the tenders for the purchase of Veterinary drugs, therapeutics, such as, Disinfectants, Germicides, Surgical aids, Anesthetics and related materials only and the Distributors/Suppliers/Agents are not eligible to participate in the tenders. The said Government Memo holds no good for the purchase of Veterinary and Artificial Insemination Equipment, Diagnostic and laboratory needs, 2003-2005. In fact, the terms and conditions that are approved for the purchase of the said Veterinary and Artificial Insemination Equipment, Diagnostic and Laboratory needs, 2003-2005 is prescribed and approved by the Government in Memo No. 2444/AH.iii(2)/03-1, dated 07-10-2003. The eligibility criteria to participate in the tenders is as follows:

1.0 **ELIGIBILITY TO PARTICIPATE IN TENDERS:**

1. Only manufacturing units and direct importers holding valid import licences whose Annual turnover is at least Rs.25.00 lakhs are eligible to participate in the tenders. Distributors/ Suppliers/ Agents are not eligible to participate in the tender.

2. Manufacturers shall have a minimum of two years of experience in the relevant field as evidenced by Manufacturing License issuing authority for the items tendered.

3. Authorized Dealers/ Authorized Stockiests/ Authorized Distributors are eligible to participate. They should have minimum of (2) years of experience in the relevant fields having Annual Turnover of Rs.10.00 lakhs for the preceding (2) years.

5. It is stated that as per the terms and conditions approved in the Memo, dated 7-10-2003, authorized Distributors/ Dealers/ Stockiestss were eligible to participate in the tenders. The original manufacturers themselves authorize concerns/firms dealing with their products as Distributors/Dealers/Stockiests and also authorize to file the tenders and sign the contract for the goods manufactured by them, i.e., original

manufacturing units and as such only those authorized Dealers/Distributors/Stockiests are permitted to participate in the tenders. The Government issued a Memo, dated 25-02-2004, approving the terms and conditions of the tenders only for the purchase of Veterinary drugs and therapeutics, whereas, the Government through memo, dated 07-10-2003, approved the terms and conditions in respect of the Veterinary drugs, Artificial Insemination Equipment, Diagnostic and Laboratory needs, 2003-2005. Therefore, as per the terms and conditions approved by the Government in the Memo, dated 07-10-2003, the respondents 4 to 16 are also entitled to participate in the tenders. The petitioner, relying on the Government Memo, dated 25-02-2004, assumed and presumed that the respondents 4 to 16 are not eligible to participate in the tenders. But according to the terms and conditions approved in Memo dated 07-10-2003, the respondents 4 to 16 are eligible to participate in the tenders and accordingly, they have submitted the tender forms and their tenders have been accepted and a Release Order No.11813/H2/2003, dated 09-03-2004, has also been issued.

6. I do not see any justification in any of the contentions of the petitioner that the said Release order No.11813/H2/2003, dated
09-03-2004, is contrary to the Government Memo, dated
25-02-2004, which has no application to the supply of Veterinary Drugs, Artificial Insemination Equipment and Laboratory needs.

7. Accordingly, the Writ Petition is dismissed, vacating the interim order dated 15-04-2004, granted by this Court. No costs.

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(V.ESWARAIAH,J)

2nd March, 2005.

Note:

Furnish C.C. by two days

B/o

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To

1 The Principal Secretary,

Government of A.P.,

Secretariat, Hyderabad,

2 The Director Animal Husbandry Department,

Government of A.P.,

Hyderabad.

3 Two CCs to the GP FOR ANIMAL HUSBANDARY,

HIGH COURT OF AP., Hyderabad (O.U.T.).

4 Two CD copies.